

United States Courts for the Ninth Circuit  
Office of the Circuit Executive P.O. Box 193939, San Francisco, Ca 94119-3939

**Re:** Complaint of Judicial Misconduct

District Court Case No.: EDCV-14-2254-JLS-(KK) (Josephine L Staton, Kenly K Kato)  
9th Circuit Case No.: 15-55994 (Leavy, Berzon, Murguia)

-- Dated: June 17, 2017 @ 2:56am [pst] ---

I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the case.

Ms. Krista Dandridge-Barnett, respectfully moves to file a complaint against **Leavy, Berzon, Murguia** of the 9th Circuit and **Josephine L. Staton, Kenly Kiya Kato** of the District Court following this Court's denial of Dandridge-Barnett's *Petition for Panel Rehearing and Rehearing en Banc* on June 02, 2017 in which such ruling was subjected to the District Court's ruling (outside of law):

1. On June 02, 2017 the Court of Appeals for the Ninth Circuit issued an order that denied both the *Petition for Panel Rehearing* and *Rehearing En Banc*.

2. On June 12, 2017 the Court of Appeals for the Ninth Circuit placed the judgment of November 23, 2016 to be in effect as of June 12, 2017.

3. Neither the Orders or Mandate addressed any of the <sup>1</sup>issues <sup>2</sup>raised within Plaintiff's filings at District Court or within Plaintiff's *Petition for Panel Rehearing or Rehearing En Banc*.

The United States maintains several and various civil rights laws that are to protect its citizens, residents, and immigrants from obstruction of those rights and free personhood in and out of businesses. Some of the laws that are to aid in the preventative measure against discrimination are 42 USC 1981, 42 USC 1985 [3], 42 USC 1986, 28 USC 1331, 28 USC 1343, California Civil Code 51, California Constitution Declaration of Rights, Article 1 Section I, California Civil Code 52, 14th Amendment, 18 USC 241, Civil

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<sup>1</sup> Defendant as matter of law and lawful procedure **must** always state a non-discriminatory reason for the adverse action to rebut the inferences of discrimination raised by Plaintiff. **See** *Murrell v. Ocean Mecca Motel, Inc.* 262 F.3d 253, 257, 258 (4<sup>th</sup> Cir 2001); *Christian v. Walmart Stores, Inc.*, 252 F.3d 862, 879 (6<sup>th</sup> Cir. 2001); *Wells v. Burger King Corp.*, 40 F. Supp 2d 1366, 1368 (MD Fla 1998).  
[https://www.law.cornell.edu/rules/frcp/rule\\_11](https://www.law.cornell.edu/rules/frcp/rule_11)

<sup>2</sup> A Defendant's defense **must** be "by clear and convincing evidence". **See** *Environ Prods., Inc. v. Furon Co.*, 215 F.3d 1261, 1265 (Fed. Cir. 2000)

Rights Act of 1964 Title 42, Chapter 21 of the United States Code. The United States Federal Circuit never addressed the invalidation of Barnes and Noble, inc's., "Motion" as such motion never met the caveats or requirements necessary to forward itself effectively -- it was an empty Motion. The United States Federal Circuit never addressed the Appellant's filings within its court that noted all applicable law earlier noted in the District Court and further highlighted in the Federal Circuit.

***The question presented is:*** Whether the United States Court of Appeals for the Federal Circuit erred in denying Appellant's (Krista Dandridge-Barnett) Appeal while upholding Appellee's (Barnes and Noble, inc.,) "Motion".

### STATUTORY PROVISIONS INVOLVED

In California the Unruh Civil Rights Act, or "Unruh Act.... applies to all business establishments of every kind... Businesses subject to the Unruh Act include bookstores, gymnasiums, shopping centers... The Unruh Act prohibits all types of arbitrary discrimination, and not just discrimination based on sex, race, color, religion, ancestry, national origin, age, disability or medical condition. The Unruh Act also prohibits discrimination based on personal characteristics, geographical origin, physical attributes, and individual beliefs..." ***Discrimination in the United States is prohibited***, 42 USC 1981, 42 USC 1985 [3], 42 USC 1986, 28 USC 1331, 28 USC 1343, California Civil Code 51, California Constitution Declaration of Rights, Article 1 Section I, California Civil Code 52, 14th Amendment, 18 USC 241, Civil Rights Act of 1964 Title 42, Chapter 21 of the United States Code.

### STATEMENT

The United States of America and the territories thereof have throughout the course of years enacted laws to aid in the protection of Civil Rights for all within such jurisdiction. California, a state within the United States, has even further clarified the laws and protections of Civil Rights by enacting what is known as the Unruh <sup>3</sup>Civil Rights law or statute which is there to assure the peoples of the state

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<sup>3</sup> The United States District Court failed to realize the matter of *Shoshana Hebshi v. United States of America* [4:13-cv-10253-TGB-LJM] there is mentioned in the 'Order DENYING Defendant's Motions....' where it is reiterated that in order "to survive a motion to dismiss, a [Plaintiff's] complaint must contain sufficient factual matter, ***accepted as true***, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556, US 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 US 544, 555

that they are free to enter any 'open to the public' commercial enterprise without the fear of discrimination, intimidation or harassment. The Unruh further clarifies that if such rights are infringed upon, the victim has a legal right to pursue such commercial enterprise to be remedied in the court[s] of law. See <sup>4</sup>California Constitution Declaration of Rights.

A. Ignored by the District Court and the 9th Circuit was the letter from the Office of the Attorney General, Kamala Harris, for the State of California to the Petitioner, Krista Dandridge-Barnett in which responded to my complaint against Barnes and Noble, inc.,.

B. The Defendant's failure to comply with FRCP 11(b) has given rise to the prejudices against the policy favouring the disposition of the case on the merits. In Ash 739, F2d at 494 the District Court issued an 'Order to Show' that facts be presented. However, in Dandridge-Barnett v. Barnes and Noble, inc., the District Court and Federal Circuit refused to issue an 'Order to Show Cause' or an 'Injunction' to the Defendant in as to demand a <sup>5</sup>defense.

American-Negroes are afforded the same rights as others in the United States of America. For hundreds of years there has been a perpetual denying of rights to American-Negroes even throughout the legal system. The Federal District and Circuit Court has refused to uphold various laws, statutes, and case

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(2007). A claim is facially plausible when Plaintiff pleads factual content that permits a court to reasonably infer that the Defendant is liable for the alleged misconduct. (*citing Twombly*, 550 US at 556). When assessing whether a Plaintiff has set forth a "plausible" claim, the District Court must accept all of the [Plaintiff's] complaint's factual allegations as true. *See Ziegler v. IBP Hog Mkt., Inc.*, 249 F 3d 509, 512 (6th Cir. 2001).

<sup>4</sup> [http://law.justia.com/constitution/california/article\\_1.html](http://law.justia.com/constitution/california/article_1.html)

<sup>5</sup> The District and Federal Circuit Court erred in understanding that although many suggest that it is difficult to prove racial and/or class [or another form of] discrimination, it is the Defendant's burden to be one of production and not of persuasion. In other words, the Defendant needs to articulate a legitimate non-discriminatory reason for the adverse action to rebut the inferences of discrimination raised by the Plaintiff. *See Murrell v. Ocean Mecca Motel, Inc.*, 262 F.3d 253, 257, 258 (4th Cir. 2001). Outside literature on OSC: Order to show cause (O.S.C.) is a demand of a judge for a party to justify, explain or prove why the court should or should not grant a motion. For example: if a party request a restraining order from a judge, the judge may feel he or she needs more information before deciding and issues an order to show cause. *Morehouse v. Pacific Hardware & Steel Co.* Circuit Court of Appeals, Ninth Circuit. February 14, 1910, 177 F. 337. Headnote: An "order to show cause" is but a means prescribed by law in the nature of a process to bring defendant into court to answer Plaintiff's demands

history in <sup>6</sup>support of Petitioner whilst upholding unlawful 'charter' in support of <sup>7</sup> Defendant. <sup>8</sup>A Defendant's defense must be "by clear and convincing evidence". A Federal Court observed, "Racial profiling of any kind is [an] anathema."

C. The District Court and the 9th Circuit also ***refused to address*** Subject-Matter Jurisdiction: <sup>9</sup>Subject-Matter jurisdiction is the authority of court to hear cases of a particular type or cases relating to a specific subject matter. *For instance*, bankruptcy court only has the authority to hear bankruptcy cases. <sup>10</sup> Subject-matter jurisdiction must be distinguished from personal jurisdiction, which is the power of a court to render a judgment against a particular defendant, and territorial jurisdiction. which is the power of the court to render a judgment concerning events that have occurred within a well-defined territory. Unlike personal or territorial jurisdiction, lack of subject-matter jurisdiction cannot be waived. A judgment from a court that did not have subject-matter jurisdiction is forever a nullity. To decide a case, a court must have a combination subject (subjectum) and either personal (personam, or territorial (locum) jurisdiction. Subject-matter. jurisdiction, personal or territorial jurisdiction. and adequate notice are the three most fundamental constitutional requirements for a valid judgment.

## THE NEGATIVE EFFECTS OF THE RULING

The District and Federal Circuit Courts' decisions disregard laws pertaining to Civil Rights and introduces a lackadaisical method of how not to apply legal procedure when presenting a "motion". The other negative impact of

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<sup>6</sup> "Any sua sponte dismissal with prejudice is error unless "the plaintiffs cannot win relief." *Wong v Bell*, 642 F. 2d 359, 361-362 (9th Cir. 1981). In determining the sufficiency of a pro se Complaint the Court must construe the facts stated in the Complaint liberally in favor of the plaintiff. See *Haines v. Kerner*, 404 US 519 (1972).

<sup>7</sup> Defendant in Civil Rights action must have personal involvement in the alleged wrongs, but personal involvement can be shown through allegations of personal direction or of actual knowledge and acquiescence. See *Figures v. Board of Public Utilities of Kansas City, Kan D Kan 1990*, 731 F Supp 1479.

<sup>8</sup> *Environ Prods., Inc. v. Furon Co.*, 215 F.3d 1261, 1265 (Fed. Cir. 2000)

<sup>9</sup> Plaintiff has satisfied FRCP 8, FRCP 12(b) and all legal requirements necessary to pursue the case against Barnes and Noble, Inc. It is clear that Barnes and Noble, Inc., has not at any time satisfied any laws, or legal requirement necessary for their 'Motion to Dismiss' to survive as such "Motion" was empty, null and void.

<sup>10</sup> [https://en.wikipedia.org/wiki/Subject-matter\\_jurisdiction](https://en.wikipedia.org/wiki/Subject-matter_jurisdiction)

the District and Federal Circuit Courts' decisions open the gateway of discrimination of any kind to be "justified" based upon the *Dandridge-Barnett v. Barnes and Noble, inc.*, as a case-history point of reference.

It is becoming clearer everyday to the American-Negroes of the United States that laws in which were originally "designed" to protect American-Negroes or even to purportedly secure our rights have strategically been placed within other classifications of individuals that haven't been impacted by the *American-Negro Struggle* yet benefit from the laws. The District Court and the 9th Circuit have <sup>11</sup>wronged justice for the American-Negroes in this case; **all of the judges should have voluntarily <sup>12</sup>recused themselves from this case.**

What is happening in the United States of America is a culture of political-correctness pertaining to how professionals or politicians publicly profess to be non-discriminatory towards American-Negroes, but when certain issues are addressed in an effort for any violator to be held accountable then the professors purportedly on the side of justice for American-Negroes negate their words. ***It is a disgrace!*** Will American-Negroes as a group of various peoples indigenous (or forced) to this land (the Americas) ever see justice in the United States of America? The jury is still out on that.

--- The term American-Negro is an appropriate term as to clearly make a distinction between the ill-treatments (as a whole) that doesn't appear to reflect in percentages within the "justice-system" others who are also classified as "Black". The American-Negro is in *Prisoner of War* status in <sup>13</sup>own land. The American Negro is the least respected of all -- which includes various other "Blacks". ---

### CONCLUSION

Plaintiff-Appellant has satisfied all legal requirements and yet the judges ruled against all laws in support of Plaintiff-Appellant to illegitimately favour Defendant (absent of the law).

***Respectfully Submitted*** /s/ Krista Dandridge-Barnett

Krista Dandridge-Barnett @ 

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<sup>11</sup> <https://www.law.cornell.edu/uscode/text/28/455>

<sup>12</sup> <https://www.law.cornell.edu/uscode/text/28/144>

<sup>13</sup> "The Negro is still languished in the corners of American society and finds himself in exile in his own land." -Martin Luther King, jr.